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United Way Center for  
Philanthropy, Leadership  
and Volunteerism

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The Honorable Richard Cordray, Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

**Re: United Way of Greater Houston comments on proposed rulemaking on payday, vehicle title, and certain high-cost installment loans**  
**Docket number CFPB-2016-0025 or RIN 3170-AA40**

Dear Director Cordray:

The United Way of Greater Houston appreciates the opportunity to submit comments on the Consumer Finance Protection Bureau (CFPB) proposed rule on payday, vehicle title, and certain high-cost installment loans. Thank you for your efforts to study this industry and propose changes that aim to end many of its harmful practices. The proposed rule makes great strides in stemming these harms, harms that we have witnessed first-hand in the Greater Houston area.

Payday and auto title businesses proliferate in communities across Texas. We recognize the economic drain these businesses bring to our community because the payday and auto title loan industry thrives when borrowers struggle to payback their loans with ongoing high fee payments on the loans and little to no principal reduction. A cycle of debt is created and hurts the financial stability of working families, seniors, and military families and consumes valuable charitable and public resources from our community.

The United Way is committed to helping hardworking low-income families achieve financial stability. The progress we have made can easily be undone when a family obtains a payday or auto title loan. That is why the United Way of Greater Houston led a group of business owners, nonprofit leaders, individual borrowers, city leaders, members of the philanthropic and faith communities and advocacy groups like AARP and Texas Appleseed to secure a city ordinance that would provide for some regulation. We were thrilled when the Houston City Council passed a regulatory ordinance in December 2013 to ensure fewer residents are trapped in a cycle of debt and to send a strong message to state regulators of the need for reform. The ordinance was passed after a significant investment of time and energy in council work sessions and negotiation efforts with the payday and auto title businesses. The combined effort of all parties reflected tremendous unity in our community---all unified in support of a strong ordinance.

To date, 35 cities across Texas have passed the unified ordinance. The unified ordinance requires all such businesses to register in the City of Houston; limits renewals of payday and auto title loans; requires each payment to reduce the loan principal by at least 25 percent; and requires loans to be made on the basis of the borrowers' ability to pay. The unified ordinance is making a difference in our city. Since the July 1, 2014 effective date, there has been a decline in the number of storefronts in the city. However, far too many residents remain entrapped by predatory payday and auto title loans.

**2015 Data from the Texas Office of Consumer Credit Commissioner for the Houston Metropolitan Statistical Areas (MSA) indicates:**

- 532 storefronts (down from 832 in April 2012)
- \$238.8 million in new loans
- \$270.4 million in fees
- \$486.9 million in refinances
- 142 autos repossessed each week
- Average APRs are between 213%-559%

We commend the CFPB on many aspects of the rule, particularly its broad scope, that included “ability to repay” standards, and its role as a floor on which other protections like the city ordinances can be added. As evidenced by the history of payday and auto title lending in Texas, this industry is constantly innovating to evade existing lending regulations; the proposed rule recognizes the expansive nature of the industry and its predatory products by covering a broad scope of loans.

We would ask that you please **ensure the rule and definitions encompass Texas local ordinances**: It is critical that the rule provisions explicitly apply to CSOs (Credit Service Organizations), CABs (Credit Access Businesses), “lenders,” “service providers” and “affiliates” to eliminate evasion of the rule’s protections. It is important to ensure our 35 city ordinances in Texas work in concert with CFPB rules and outline definitions of “rollover,” “refinance,” “payment,” “installment” and “renewal”. This will eliminate confusion over terms and on the applicability of the protections in our Texas cities’ ordinances.

We would also ask that the following be clarified in the rules:

- **Require ability to repay standard for all loans, with no exceptions**: As currently written, the proposed rule contains dangerous loopholes that significantly undermine the ability to repay standard, a standard which should be applied to all loans. Currently, the proposal could allow six (6) 600% APR payday loans a year without any ability to repay standard. In addition, the rule exempts longer-term payday loans with high origination fees from its proposed ability to repay test as well as loans where the lender takes access to the bank account or the car after 72 hours of making the loan. These loopholes must be closed; the ability to repay standards should apply to all loans.
- **Long-term loans need added protections to ensure affordable terms**: As the rule stands, there are few protections from a likely scenario of increasing the length of the loan term in order to cloak unaffordability. Though Texas state law and the city ordinances include payment limitations and effective limitations on the length of the loan, the online space in Texas includes many lenders evading state consumer lending laws.
- **Strengthen protections against loan flipping**: We ask that CFPB increase the cooling off period to 60 days between each short-term loan. In addition, it is critically important to strengthen the protections against repeat refinancing of longer-term loans. If lenders can repeatedly flip borrowers from one long-term loan into another – as they do in Texas today - debt will continue to pile up and borrowers will once again be stuck in a debt trap.
- **Clarify that the rule requires compliance from Credit Services Organizations (CSOs) and Credit Access Businesses (CABs)**: The rule must aim to prevent payday and auto title businesses from finding ways to continue their current practices by exploiting any ambiguities or loopholes in the rule. In Texas, payday and auto title lenders operate as “credit access

businesses” (CABs) with uncapped fees and loan structures that too often keep borrowers in a cycle of debt that extends far longer than the original loan term. The very structure of CABs, where payday and auto title lenders use the state’s credit services organizations law to pose as brokers, as opposed to lenders, exemplifies how these businesses will exploit any loophole they can. While the rule applies to all covered products regardless of the entity making the loan, in some instances, the provisions are at risk of applying to the lender and its affiliates only, and not the CSO. It is critical that the rule provisions explicitly apply to the “lender,” “service providers” and “affiliates,” so that neither the CSO nor the lenders can evade the rule’s protections.

United Way of Greater Houston’s mission is to engage caring people to improve lives and build a stronger community. Through United Way THRIVE, a collaboration of nonprofits, businesses, community colleges and the Workforce Board, we have invested millions into successful coordinated efforts to promote fair financial services, provide financial literacy and budgeting skills, help families build financial capability, and obtain good paying jobs all aimed at giving families tools to create a financially stable future. We know from experience that direct services alone cannot achieve our very noble mission without strong public policy that affords protections and safeguards.

Thank you for your work in this regard and please do not hesitate to reach out to us as you seek approval for the proposed rules.

Very truly yours,



Anna M. Babin  
President and CEO



Marc Watts  
Chair of the Board of Trustees